

AMENDED IN ASSEMBLY MAY 9, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 491

Introduced by Assembly Member Torres

February 19, 2013

An act to amend Sections 207, 212, 5140, 5151, 7140, 7151, 9140, and 9151 of the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 491, as amended, Torres. Corporations: bylaws: emergency powers.

Existing law authorizes and regulates the formation and operation of a corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation, including, but not limited to, the adoption and contents of corporate bylaws.

This bill would authorize a corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation to take actions during an emergency, as defined, to conduct these corporations' ordinary business operations and affairs, as specified, and provide that any action taken in good faith during an emergency under this authorization would bind these corporations and not be a basis to impose liability on a corporate director, officer, employee, or agent. This bill would also authorize a corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation to adopt bylaws to further direct the operations of these corporations during an emergency, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 207 of the Corporations Code is amended
2 to read:
- 3 207. Subject to any limitations contained in the articles and to
4 compliance with other provisions of this division and any other
5 applicable laws, a corporation shall have all of the powers of a
6 natural person in carrying out its business activities, including,
7 without limitation, the power to:
- 8 (a) Adopt, use and at will alter a corporate seal, but failure to
9 affix a seal does not affect the validity of any instrument.
- 10 (b) Adopt, amend and repeal bylaws.
- 11 (c) Qualify to do business in any other state, territory,
12 dependency or foreign country.
- 13 (d) Subject to the provisions of Section 510, issue, purchase,
14 redeem, receive, take or otherwise acquire, own, hold, sell, lend,
15 exchange, transfer or otherwise dispose of, pledge, use and
16 otherwise deal in and with its own shares, bonds, debentures and
17 other securities.
- 18 (e) Make donations, regardless of specific corporate benefit, for
19 the public welfare or for community fund, hospital, charitable,
20 educational, scientific, civic or similar purposes.
- 21 (f) Pay pensions, and establish and carry out pension,
22 profit-sharing, share bonus, share purchase, share option, savings,
23 thrift and other retirement, incentive and benefit plans, trusts and
24 provisions for any or all of the directors, officers and employees
25 of the corporation or any of its subsidiary or affiliated corporations,
26 and to indemnify and purchase and maintain insurance on behalf
27 of any fiduciary of such plans, trusts or provisions.
- 28 (g) Subject to the provisions of Section 315, assume obligations,
29 enter into contracts, including contracts of guaranty or suretyship,
30 incur liabilities, borrow and lend money and otherwise use its
31 credit, and secure any of its obligations, contracts or liabilities by
32 mortgage, pledge or other encumbrance of all or any part of its
33 property, franchises and income.
- 34 (h) Participate with others in any partnership, joint venture or
35 other association, transaction or arrangement of any kind, whether

1 or not such participation involves sharing or delegation of control
2 with or to others.

3 (i) (1) In advance of or during an emergency, take any or all
4 of the following actions necessary to conduct the corporation's
5 ordinary business operations and affairs during an emergency,
6 unless emergency bylaws provide otherwise pursuant to subdivision
7 (c) of Section 212:

8 (A) Modify lines of succession to accommodate the incapacity
9 of any director, officer, employee, or agent resulting from the
10 emergency.

11 (B) Relocate the principal office, designate alternative principal
12 offices or regional offices, or authorize the officers to do so.

13 (C) Give notice to a director or directors in any practicable
14 manner under the circumstances, including, but not limited to, by
15 publication and radio, when notice of a meeting of the board cannot
16 be given to that director or directors in the manner prescribed by
17 the bylaws or Section 307.

18 (D) Deem that one or more officers of the corporation present
19 at a board meeting is a director, in order of rank and within the
20 same rank in order of seniority, as necessary to achieve a quorum
21 for that meeting.

22 (2) During an emergency, the board may not take any action
23 that requires the vote of the shareholders or is not in the
24 corporation's ordinary course of business, unless the required vote
25 of the shareholders was obtained prior to the emergency.

26 (3) Any actions taken in good faith during an emergency under
27 this subdivision binds the corporation and may not be used to
28 impose liability on a corporate director, officer, employee, or agent.

29 (4) For purposes of this subdivision, "emergency" means any
30 of the following events or circumstances as a result of which, *and*
31 *only so long as*, a quorum of the corporation's board of directors
32 cannot be readily convened for action:

33 (A) A natural catastrophe, including, but not limited to, a
34 hurricane, tornado, storm, high water, wind-driven water, tidal
35 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
36 snowstorm, or drought, or, regardless of cause, any fire, flood, or
37 explosion.

38 (B) An attack on this state or nation by an enemy of the United
39 States of America, or upon receipt by this state of a warning from

1 the federal government indicating that an enemy attack is probable
2 or imminent.

3 (C) An act of terrorism or other manmade disaster that results
4 in extraordinary levels of casualties or damage or disruption
5 severely affecting the infrastructure, environment, economy,
6 government functions, or population, including, but not limited
7 to, mass evacuations.

8 (D) A state of emergency proclaimed by the Governor.

9 SEC. 2. Section 212 of the Corporations Code is amended to
10 read:

11 212. (a) The bylaws shall set forth (unless such provision is
12 contained in the articles, in which case it may only be changed by
13 an amendment of the articles) the number of directors of the
14 corporation; or that the number of directors shall be not less than
15 a stated minimum nor more than a stated maximum (which in no
16 case shall be greater than two times the stated minimum minus
17 one), with the exact number of directors to be fixed, within the
18 limits specified, by approval of the board or the shareholders
19 (Section 153) in the manner provided in the bylaws, subject to
20 paragraph (5) of subdivision (a) of Section 204. The number or
21 minimum number of directors shall not be less than three; provided,
22 however, that (1) before shares are issued, the number may be one,
23 (2) before shares are issued, the number may be two, (3) so long
24 as the corporation has only one shareholder, the number may be
25 one, (4) so long as the corporation has only one shareholder, the
26 number may be two, and (5) so long as the corporation has only
27 two shareholders, the number may be two. After the issuance of
28 shares, a bylaw specifying or changing a fixed number of directors
29 or the maximum or minimum number or changing from a fixed to
30 a variable board or vice versa may only be adopted by approval
31 of the outstanding shares (Section 152); provided, however, that
32 a bylaw or amendment of the articles reducing the fixed number
33 or the minimum number of directors to a number less than five
34 cannot be adopted if the votes cast against its adoption at a meeting
35 or the shares not consenting in the case of action by written consent
36 are equal to more than $16\frac{2}{3}$ percent of the outstanding shares
37 entitled to vote.

38 (b) The bylaws may contain any provision, not in conflict with
39 law or the articles for the management of the business and for the

1 conduct of the affairs of the corporation, including but not limited
2 to:

3 (1) Any provision referred to in subdivision (b), (c) or (d) of
4 Section 204.

5 (2) The time, place and manner of calling, conducting and giving
6 notice of shareholders', directors' and committee meetings.

7 (3) The manner of execution, revocation and use of proxies.

8 (4) The qualifications, duties and compensation of directors;
9 the time of their annual election; and the requirements of a quorum
10 for directors' and committee meetings.

11 (5) The appointment and authority of committees of the board.

12 (6) The appointment, duties, compensation and tenure of
13 officers.

14 (7) The mode of determination of holders of record of its shares.

15 (8) The making of annual reports and financial statements to
16 the shareholders.

17 (c) (1) The bylaws may contain any provision, not in conflict
18 with the articles, to manage and conduct the ordinary business
19 affairs of the corporation effective only in an emergency as defined
20 in Section 207, including, but not limited to, procedures for calling
21 a board meeting, quorum requirements for a board meeting, and
22 designation of additional or substitute directors.

23 (2) During an emergency, the board may not take any action
24 that requires the vote of the shareholders or otherwise is not in the
25 corporation's ordinary course of business, unless the required vote
26 of the shareholders was obtained prior to the emergency.

27 (3) All provisions of the regular bylaws consistent with the
28 emergency bylaws shall remain effective during the emergency,
29 and the emergency bylaws shall not be effective after the
30 emergency ends.

31 (4) Corporate action taken in good faith in accordance with the
32 emergency bylaws binds the corporation, and may not be used to
33 impose liability on a corporate director, officer, employee, or agent.

34 SEC. 3. Section 5140 of the Corporations Code is amended to
35 read:

36 5140. Subject to any limitations contained in the articles or
37 bylaws and to compliance with other provisions of this division
38 and any other applicable laws, a corporation, in carrying out its
39 activities, shall have all of the powers of a natural person,
40 including, without limitation, the power to:

- 1 (a) Adopt, use, and at will alter a corporate seal, but failure to
2 affix a seal does not affect the validity of any instrument.
- 3 (b) Adopt, amend, and repeal bylaws.
- 4 (c) Qualify to conduct its activities in any other state, territory,
5 dependency or foreign country.
- 6 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
7 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
8 use and otherwise deal in and with its own bonds, debentures,
9 notes and debt securities.
- 10 (e) Issue memberships.
- 11 (f) Pay pensions, and establish and carry out pension, deferred
12 compensation, saving, thrift and other retirement, incentive and
13 benefit plans, trusts and provisions for any or all of its directors,
14 officers, employees, and persons providing services to it or any of
15 its subsidiary or related or associated corporations, and to
16 indemnify and purchase and maintain insurance on behalf of any
17 fiduciary of such plans, trusts, or provisions.
- 18 (g) Levy dues, assessments, and admission fees.
- 19 (h) Make donations for the public welfare or for community
20 funds, hospital, charitable, educational, scientific, civic, religious
21 or similar purposes.
- 22 (i) Assume obligations, enter into contracts, including contracts
23 of guarantee or suretyship, incur liabilities, borrow or lend money
24 or otherwise use its credit, and secure any of its obligations,
25 contracts or liabilities by mortgage, pledge or other encumbrance
26 of all or any part of its property and income.
- 27 (j) Participate with others in any partnership, joint venture or
28 other association, transaction or arrangement of any kind whether
29 or not such participation involves sharing or delegation of control
30 with or to others.
- 31 (k) Act as trustee under any trust incidental to the principal
32 objects of the corporation, and receive, hold, administer, exchange,
33 and expend funds and property subject to such trust.
- 34 (l) Carry on a business at a profit and apply any profit that results
35 from the business activity to any activity in which it may lawfully
36 engage.
- 37 (m) Pay the reasonable value of services rendered in this state
38 to the corporation before January 1, 1975, and not previously paid,
39 by any person who performed such services on a full-time basis
40 under the direction of a religious organization in connection with

1 the religious tenets of the organization. Such person shall have
2 relied solely on the religious organization for his or her financial
3 support for a minimum of five years. A payment shall not be made
4 if such person or religious organization waives the payment or
5 receipt of compensation for such services in writing. Payment may
6 be made to such religious organization to reimburse it for
7 maintenance of any person who rendered such services and to
8 assist it in providing future support and maintenance; however,
9 payment shall not be made from any funds or assets acquired with
10 funds donated by or traceable to gifts made to the corporation by
11 any person, organization or governmental agency other than the
12 members, immediate families of members and affiliated religious
13 organizations of the religious organization under whose direction
14 the services were performed.

15 (n) (1) In advance of or during an emergency, take any or all
16 of the following actions necessary to conduct the corporation's
17 ordinary business operations and affairs during an emergency,
18 unless emergency bylaws provide otherwise pursuant to subdivision
19 (g) of Section 5151:

20 (A) Modify lines of succession to accommodate the incapacity
21 of any director, officer, employee, or agent resulting from the
22 emergency.

23 (B) Relocate the principal office, designate alternative principal
24 offices or regional offices, or authorize the officers to do so.

25 (C) Give notice to a director or directors in any practicable
26 manner under the circumstances, including, but not limited to, by
27 publication and radio, when notice of a meeting of the board cannot
28 be given to that director or directors in the manner prescribed by
29 the bylaws or Section 5211.

30 (D) Deem that one or more officers of the corporation present
31 at a board meeting is a director, in order of rank and within the
32 same rank in order of seniority, as necessary to achieve a quorum
33 for that meeting.

34 (2) During an emergency, the board may not take any action
35 that requires the vote of the shareholders or is not in the
36 corporation's ordinary course of business, unless the required vote
37 of the shareholders was obtained prior to the emergency.

38 (3) Any actions taken in good faith during an emergency under
39 this subdivision binds the corporation and may not be used to
40 impose liability on a corporate director, officer, employee, or agent.

(4) For purposes of this subdivision, “emergency” means any of the following events or circumstances as a result of which, *and only so long as*, a quorum of the corporation’s board of directors cannot be readily convened for action:

(A) A natural catastrophe, including, but not limited to, a hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought, or, regardless of cause, any fire, flood, or explosion.

(B) An attack on this state or nation by an enemy of the United States of America, or upon receipt by this state of a warning from the federal government indicating that an enemy attack is probable or imminent.

(C) An act of terrorism or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the infrastructure, environment, economy, government functions, or population, including, but not limited to, mass evacuations.

(D) A state of emergency proclaimed by the Governor.

SEC. 4. Section 5151 of the Corporations Code is amended to read:

5151. (a) The bylaws shall set forth (unless that provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation, or the method of determining the number of directors of the corporation, or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e). The number or minimum number of directors may be one or more.

(b) Once members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034).

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation, including but not limited to:

(1) Any provision referred to in subdivision (c) of Section 5132.

1 (2) The time, place and manner of calling, conducting and giving
2 notice of members', directors' and committee meetings, or of
3 conducting mail ballots.

4 (3) The qualifications, duties and compensation of directors;
5 the time of their election; and the requirements of a quorum for
6 directors' and committee meetings.

7 (4) The appointment and authority of committees.

8 (5) The appointment, duties, compensation and tenure of
9 officers.

10 (6) The mode of determination of members of record.

11 (7) The making of reports and financial statements to members.

12 (8) Setting, imposing and collecting dues, assessments and
13 admission fees.

14 (d) The bylaws may provide for the manner of admission,
15 withdrawal, suspension, and expulsion of members, consistent
16 with the requirements of Section 5341.

17 (e) The bylaws may require, for any or all corporate actions
18 (except as provided in paragraphs (1) and (2) of subdivision (a) of
19 Section 5222, subdivision (c) of Section 5616, and Section 6610),
20 the vote of a larger proportion of, or all of, the members or the
21 members of any class, unit, or grouping of members, or the vote
22 of a larger proportion of, or all of, the directors, than is otherwise
23 required by this part. Such a provision in the bylaws requiring such
24 greater vote shall not be altered, amended or repealed except by
25 such greater vote, unless otherwise provided in the bylaws.

26 (f) The bylaws may contain a provision limiting the number of
27 members, in total or of any class, which the corporation is
28 authorized to admit.

29 (g) (1) The bylaws may contain any provision, not in conflict
30 with the articles, to manage and conduct the ordinary business
31 affairs of the corporation effective only in an emergency as defined
32 in Section 5140, including, but not limited to, procedures for calling
33 a board meeting, quorum requirements for a board meeting, and
34 designation of additional or substitute directors.

35 (2) During an emergency, the board may not take any action
36 that requires the vote of the shareholders or otherwise is not in the
37 corporation's ordinary course of business, unless the required vote
38 of the shareholders was obtained prior to the emergency.

39 (3) All provisions of the regular bylaws consistent with the
40 emergency bylaws shall remain effective during the emergency,

1 and the emergency bylaws shall not be effective after the
2 emergency ends.

3 (4) Corporate action taken in good faith in accordance with the
4 emergency bylaws binds the corporation, and may not be used to
5 impose liability on a corporate director, officer, employee, or agent.

6 SEC. 5. Section 7140 of the Corporations Code is amended to
7 read:

8 7140. Subject to any limitations contained in the articles or
9 bylaws and to compliance with other provisions of this division
10 and any other applicable laws, a corporation, in carrying out its
11 activities, shall have all of the powers of a natural person,
12 including, without limitation, the power to:

13 (a) Adopt, use, and at will alter a corporate seal, but failure to
14 affix a seal does not affect the validity of any instrument.

15 (b) Adopt, amend, and repeal bylaws.

16 (c) Qualify to conduct its activities in any other state, territory,
17 dependency or foreign country.

18 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
19 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
20 use and otherwise deal in and with its own memberships, bonds,
21 debentures, notes and debt securities.

22 (e) Pay pensions, and establish and carry out pension, deferred
23 compensation, saving, thrift and other retirement, incentive and
24 benefit plans, trusts and provisions for any or all of its directors,
25 officers, employees, and persons providing services to it or any of
26 its subsidiary or related or associated corporations, and to
27 indemnify and purchase and maintain insurance on behalf of any
28 fiduciary of such plans, trusts, or provisions.

29 (f) Issue certificates evidencing membership in accordance with
30 the provisions of Section 7313 and issue identity cards.

31 (g) Levy dues, assessments, and admission and transfer fees.

32 (h) Make donations for the public welfare or for community
33 funds, hospital, charitable, educational, scientific, civic, religious
34 or similar purposes.

35 (i) Assume obligations, enter into contracts, including contracts
36 of guarantee or suretyship, incur liabilities, borrow or lend money
37 or otherwise use its credit, and secure any of its obligations,
38 contracts or liabilities by mortgage, pledge or other encumbrance
39 of all or any part of its property and income.

1 (j) Participate with others in any partnership, joint venture or
2 other association, transaction or arrangement of any kind whether
3 or not such participation involves sharing or delegation of control
4 with or to others.

5 (k) Act as trustee under any trust incidental to the principal
6 objects of the corporation, and receive, hold, administer, exchange,
7 and expend funds and property subject to such trust.

8 (l) Carry on a business at a profit and apply any profit that results
9 from the business activity to any activity in which it may lawfully
10 engage.

11 (m) (1) In advance of, or during an emergency, take any or all
12 of the following actions necessary to conduct the corporation's
13 ordinary business operations and affairs during an emergency,
14 unless emergency bylaws provide otherwise pursuant to subdivision
15 (g) of Section 7151:

16 (A) Modify lines of succession to accommodate the incapacity
17 of any director, officer, employee, or agent resulting from the
18 emergency.

19 (B) Relocate the principal office, designate alternative principal
20 offices or regional offices, or authorize the officers to do so.

21 (C) Give notice to a director or directors in any practicable
22 manner under the circumstances, including, but not limited to, by
23 publication and radio, when notice of a meeting of the board cannot
24 be given to that director or directors in the manner prescribed by
25 the bylaws or Section 7211.

26 (D) Deem that one or more officers of the corporation present
27 at a board meeting is a director, in order of rank and within the
28 same rank in order of seniority, as necessary to achieve a quorum
29 for that meeting.

30 (2) During an emergency, the board may not take any action
31 that requires the vote of the shareholders or is not in the
32 corporation's ordinary course of business, unless the required vote
33 of the shareholders was obtained prior to the emergency.

34 (3) Any actions taken in good faith during an emergency under
35 this subdivision binds the corporation and may not be used to
36 impose liability on a corporate director, officer, employee, or agent.

37 (4) For purposes of this subdivision, "emergency" means any
38 of the following events or circumstances as a result of which, *and*
39 *only so long as*, a quorum of the corporation's board of directors
40 cannot be readily convened for action:

1 (A) A natural catastrophe, including, but not limited to, a
2 hurricane, tornado, storm, high water, wind-driven water, tidal
3 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
4 snowstorm, or drought, or, regardless of cause, any fire, flood, or
5 explosion.

6 (B) An attack on this state or nation by an enemy of the United
7 States of America, or upon receipt by this state of a warning from
8 the federal government indicating that an enemy attack is probable
9 or imminent.

10 (C) An act of terrorism or other man-made disaster that results
11 in extraordinary levels of casualties or damage or disruption
12 severely affecting the infrastructure, environment, economy,
13 government functions, or population, including, but not limited
14 to, mass evacuations.

15 (D) A state of emergency proclaimed by the Governor.

16 SEC. 6. Section 7151 of the Corporations Code is amended to
17 read:

18 7151. (a) The bylaws shall set forth (unless such provision is
19 contained in the articles, in which case it may only be changed by
20 an amendment of the articles) the number of directors of the
21 corporation, or the method of determining the number of directors
22 of the corporation, or that the number of directors shall be not less
23 than a stated minimum nor more than a stated maximum with the
24 exact number of directors to be fixed, within the limits specified,
25 by approval of the board or the members (Section 5034), in the
26 manner provided in the bylaws, subject to subdivision (e). The
27 number or minimum number of directors may be one or more.

28 (b) Once members have been admitted, a bylaw specifying or
29 changing a fixed number of directors or the maximum or minimum
30 number or changing from a fixed to a variable board or vice versa
31 may only be adopted by approval of the members (Section 5034).

32 (c) The bylaws may contain any provision, not in conflict with
33 law or the articles, for the management of the activities and for
34 the conduct of the affairs of the corporation, including but not
35 limited to:

36 (1) Any provision referred to in subdivision (c) of Section 7132.

37 (2) The time, place and manner of calling, conducting and giving
38 notice of members', directors' and committee meetings, or of
39 conducting mail ballots.

1 (3) The qualifications, duties and compensation of directors;
2 the time of their election; and the requirements of a quorum for
3 directors' and committee meetings.

4 (4) The appointment of committees, composed of directors or
5 nondirectors or both, by the board or any officer and the authority
6 of any such committees.

7 (5) The appointment, duties, compensation and tenure of
8 officers.

9 (6) The mode of determination of members of record.

10 (7) The making of reports and financial statements to members.

11 (8) Setting, imposing and collecting dues, assessments, and
12 admission and transfer fees.

13 (d) The bylaws may provide for the manner of admission,
14 withdrawal, suspension, and expulsion of members, consistent
15 with the requirements of Section 7341.

16 (e) The bylaws may require, for any or all corporate actions
17 (except as provided in paragraphs (1) and (2) of subdivision (a) of
18 Section 7222, subdivision (c) of Section 7615, and Section 8610)
19 the vote of a larger proportion of, or all of, the members or the
20 members of any class, unit, or grouping of members or the vote
21 of a larger proportion of, or all of, the directors, than is otherwise
22 required by this part. Such a provision in the bylaws requiring such
23 greater vote shall not be altered, amended or repealed except by
24 such greater vote, unless otherwise provided in the bylaws.

25 (f) The bylaws may contain a provision limiting the number of
26 members, in total or of any class, which the corporation is
27 authorized to admit.

28 (g) (1) The bylaws may contain any provision, not in conflict
29 with the articles, to manage and conduct the ordinary business
30 affairs of the corporation effective only in an emergency as defined
31 in Section 7140, including, but not limited to, procedures for calling
32 a board meeting, quorum requirements for a board meeting, and
33 designation of additional or substitute directors.

34 (2) During an emergency, the board may not take any action
35 that requires the vote of the shareholders or otherwise is not in the
36 corporation's ordinary course of business, unless the required vote
37 of the shareholders was obtained prior to the emergency.

38 (3) All provisions of the regular bylaws consistent with the
39 emergency bylaws shall remain effective during the emergency,

1 and the emergency bylaws shall not be effective after the
2 emergency ends.

3 (4) Corporate action taken in good faith in accordance with the
4 emergency bylaws binds the corporation, and may not be used to
5 impose liability on a corporate director, officer, employee, or agent.

6 SEC. 7. Section 9140 of the Corporations Code is amended to
7 read:

8 9140. Subject to any limitations contained in the articles or
9 bylaws and to compliance with other provisions of this division
10 and any other applicable laws, a corporation, in carrying out its
11 activities, shall have all of the powers of a natural person,
12 including, without limitation, the power to:

13 (a) Adopt, use, and at will alter a corporate seal, but failure to
14 affix a seal does not affect the validity of any instrument.

15 (b) Adopt, amend, and repeal bylaws.

16 (c) Qualify to conduct its activities in any other state, territory,
17 dependency or foreign country.

18 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
19 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
20 use and otherwise deal in and with its own bonds, debentures,
21 notes and debt securities.

22 (e) Issue memberships.

23 (f) Pay pensions, and establish and carry out pension, deferred
24 compensation, saving, thrift and other retirement, incentive and
25 benefit plans, trusts, and provisions for any or all of its directors,
26 officers, employees, and persons providing services to it or any of
27 its subsidiary or related or associated corporations, and to
28 indemnify and purchase and maintain insurance on behalf of any
29 fiduciary of such plans, trusts, or provisions.

30 (g) Levy dues, assessments, and fees.

31 (h) Make donations for the public welfare or for community
32 funds, hospital, charitable, educational, scientific, civic, religious
33 or similar purposes.

34 (i) Assume obligations, enter into contracts, including contracts
35 of guarantee or suretyship, incur liabilities, borrow or lend money
36 or otherwise use its credit, and secure any of its obligations,
37 contracts or liabilities by mortgage, pledge or other encumbrance
38 of all or any part of its property and income.

39 (j) Participate with others in any partnership, joint venture or
40 other association, transaction or arrangement of any kind whether

1 or not such participation involves sharing or delegation of control
2 with or to others.

3 (k) Act as trustee under any trust incidental to the principal
4 objects of the corporation, and receive, hold, administer, exchange,
5 and expend funds and property subject to such trust.

6 (l) Carry on a business at a profit and apply any profit that results
7 from the business activity to any activity in which it may lawfully
8 engage.

9 (m) Pay the reasonable value of services rendered in this state
10 to the corporation before January 1, 1975, and not previously paid,
11 by any person who performed such services on a full-time basis
12 under the direction of a religious organization in connection with
13 the religious tenets of the organization. Such person shall have
14 relied solely on the religious organization for his or her financial
15 support for a minimum of five years. A payment shall not be made
16 if such person or religious organization waives the payment or
17 receipt of compensation for such services in writing. Payment may
18 be made to such religious organization to reimburse it for
19 maintenance of any person who rendered such services and to
20 assist it in providing future support and maintenance; however,
21 payment shall not be made from any funds or assets acquired with
22 funds donated by or traceable to gifts made to the corporation by
23 any person, organization or governmental agency other than the
24 members, immediate families of members and affiliated religious
25 organizations of the religious organization under whose direction
26 the services were performed.

27 (n) (1) In advance of or during an emergency, take any or all
28 of the following actions necessary to conduct the corporation's
29 ordinary business operations and affairs during an emergency,
30 unless emergency bylaws provide otherwise pursuant to subdivision
31 (g) of Section 9151:

32 (A) Modify lines of succession to accommodate the incapacity
33 of any director, officer, employee, or agent resulting from the
34 emergency.

35 (B) Relocate the principal office, designate alternative principal
36 offices or regional offices, or authorize the officers to do so.

37 (C) Give notice to a director or directors in any practicable
38 manner under the circumstances, including, but not limited to, by
39 publication and radio, when notice of a meeting of the board cannot

1 be given to that director or directors in the manner prescribed by
2 the bylaws or Section 9211.

3 (D) Deem that one or more officers of the corporation present
4 at a board meeting is a director, in order of rank and within the
5 same rank in order of seniority, as necessary to achieve a quorum
6 for that meeting.

7 (2) During an emergency, the board may not take any action
8 that requires the vote of the shareholders or is not in the
9 corporation's ordinary course of business, unless the required vote
10 of the shareholders was obtained prior to the emergency.

11 (3) Any actions taken in good faith during an emergency under
12 this subdivision binds the corporation and may not be used to
13 impose liability on a corporate director, officer, employee, or agent.

14 (4) For purposes of this subdivision, "emergency" means any
15 of the following events or circumstances as a result of which, *and*
16 *only so long as*, a quorum of the corporation's board of directors
17 cannot be readily convened for action:

18 (A) A natural catastrophe, including, but not limited to, a
19 hurricane, tornado, storm, high water, wind-driven water, tidal
20 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
21 snowstorm, or drought, or, regardless of cause, any fire, flood, or
22 explosion.

23 (B) An attack on this state or nation by an enemy of the United
24 States of America, or upon receipt by this state of a warning from
25 the federal government indicating that an enemy attack is probable
26 or imminent.

27 (C) An act of terrorism or other man-made disaster that results
28 in extraordinary levels of casualties or damage or disruption
29 severely affecting the infrastructure, environment, economy,
30 government functions, or population, including, but not limited
31 to, mass evacuations.

32 (D) A state of emergency proclaimed by the Governor.

33 SEC. 8. Section 9151 of the Corporations Code is amended to
34 read:

35 9151. (a) The bylaws shall set forth (unless such provision is
36 contained in the articles, in which case it may only be changed by
37 an amendment of the articles) the number of directors of the
38 corporation, or the method of determining the number of directors
39 of the corporation, or that the number of directors shall be not less
40 than a stated minimum nor more than a stated maximum with the

1 exact number of directors to be fixed, within the limits specified,
2 by approval of the board or the members (Section 5034), in the
3 manner provided in the bylaws, subject to subdivision (e) of
4 Section 9151. The number or minimum number of directors may
5 be one or more.

6 (b) Except as otherwise provided in the articles or bylaws, once
7 members have been admitted, a bylaw specifying or changing a
8 fixed number of directors or the maximum or minimum number
9 or changing from a fixed to a variable board or vice versa may
10 only be adopted by approval of the members (Section 5034).

11 (c) The bylaws may contain any provision, not in conflict with
12 law or the articles, for the management of the activities and for
13 the conduct of the affairs of the corporation, including but not
14 limited to:

15 (1) Any provision referred to in subdivision (c) of Section 9132.

16 (2) The time, place and manner of calling, conducting and giving
17 notice of members', directors' and committee meetings, or of
18 conducting mail ballots.

19 (3) The qualifications, duties and compensation of directors;
20 the time of their election; and the requirements of a quorum for
21 directors' and committee meetings.

22 (4) The appointment of committees, composed of directors or
23 nondirectors or both, by the board or any officer and the authority
24 of any such committees.

25 (5) The appointment, duties, compensation and tenure of
26 officers.

27 (6) The mode of determination of members of record.

28 (7) The making of reports and financial statements to members.

29 (8) Setting, imposing and collecting dues, assessments, and
30 admissions and transfer fees.

31 (d) The bylaws may provide for the manner of admission,
32 withdrawal, suspension, and expulsion of members.

33 (e) The bylaws may require, for any or all corporate actions
34 (except as provided in Section 9222 and subdivision (b) of Section
35 9680), the vote of a larger proportion of, or all of, the members or
36 the members of any class, unit, or grouping of members, or the
37 vote of a larger proportion of, or all of, the directors than is
38 otherwise required by this part. Such a provision in the bylaws
39 requiring such greater vote shall not be altered, amended or

1 repealed except by such greater vote, unless otherwise provided
2 in the bylaws.

3 (f) The bylaws may contain a provision limiting the number of
4 members, in total or of any class, which the corporation is
5 authorized to admit.

6 (g) (1) The bylaws may contain any provision, not in conflict
7 with the articles, to manage and conduct the ordinary business
8 affairs of the corporation effective only in an emergency as defined
9 in Section 9140, including, but not limited to, procedures for calling
10 a board meeting, quorum requirements for a board meeting, and
11 designation of additional or substitute directors.

12 (2) During an emergency, the board may not take any action
13 that requires the vote of the shareholders or otherwise is not in the
14 corporation's ordinary course of business, unless the required vote
15 of the shareholders was obtained prior to the emergency.

16 (3) All provisions of the regular bylaws consistent with the
17 emergency bylaws shall remain effective during the emergency,
18 and the emergency bylaws shall not be effective after the
19 emergency ends.

20 (4) Corporate action taken in good faith in accordance with the
21 emergency bylaws binds the corporation, and may not be used to
22 impose liability on a corporate director, officer, employee, or agent.